

The Leesburg Planning Commission met on July 20, 2006 in the Town Council Chambers, 25 West Market Street, Leesburg, Virginia. Staff members present were Lee Phillips, Charlie Mumaw, Brian Boucher, Wade Burkholder, Annie McDonald, Jean Coates, Barbara Beach, Susan Swift and Linda DeFranco

CALL TO ORDER

The meeting was called to order by Vice Chairman Ted Kalriess at 7:00pm

PLEDGE OF ALLEGIANCE AND ROLL CALL

The following Commission members were present:

Vice Chairman Ted Kalriess
Commissioner Barnes
Commissioner Burk
Commissioner Dunn
Commissioner Hoovler
Commissioner Miller
Commissioner Moore

Mayor Umstattd was absent.

ADOPTION OF AGENDA

Vice Chairman Kalriess asked that the Zoning Ordinance Amendments public hearing precede the remainder of the agenda.

Commissioner Miller moved to adopt the agenda as amended.

Motion: Miller
Second: Burk
Carried: 6-0-1

Commissioner Moore was absent for the vote.

PUBLIC HEARING

Brian Boucher presented the staff report on the Zoning Ordinance Amendments. Portions of the Zoning Ordinance affected were the East Market Street Setbacks, Revision of District Descriptions to the 2005 Town Plan, Elimination of the O-2, I-2 and M-1 designations, Revision of Telecommunication requirements, Application for filing fees, Rezoning and Special Exception Requirements, Traffic Impact Analysis, Landscape Plan, Commission Permits and Proffer Appeals, Concurrent Review of Rezoning and Special Exceptions, Written notice of Rezoning and Special Exceptions if 25 or more properties are adjacent to the designated area, BAR terminology with regard to terms served, BAR terminology with reference to public projects in the H-1 and H-2 Districts,

Designation of H-1 District and Landmarks, Neon /Signs in relation to BAR review, Historic Preservation and PDP's, Plant Diversity, Street Trees, Adding Child Care Centers to the Buffer Matrix, Waivers for Loading spaces, Patio setbacks, Delete the Opaque Fence Requirement for swimming pools, Trucking Operations prohibited as a home occupation business, Residential driveways should be paved, Paving with relation to yard size (no more than 35%), Size of Trucks allowed to park on residential streets, Increase in Sidewalk widths, Performance Standards for service stations, Outdoor Lighting and Pole Heights, Bank Drive-throughs with regard to stacking spaces, Modification of rear yard setbacks in the B-1 district, Elimination of FAR for hotels in the B-2 district, and adding Warming Centers to various districts with regard to performance standards, parking and a definition.

Town Attorney Barbara Beach noted that staff was looking at a way to incorporate warming shelters without requiring a special exception so these could be accessories to such places as churches or schools.

Mr. Boucher went on to state that he had received comments from Commissioner Miller regarding the sidewalk widths in which she stated that consideration be given for sidewalks in the H-1 district. Mr. Boucher commented that the BAR does have purview over sidewalks in the H-1. Another comment was on the historic designation criteria with regard to National Register and the Virginia Historic District Register. Archeological designation was also mentioned. With regard to monopoles, they do require a security fence and attempts to make them look sightly will be considered.

Vice Chairman Kalriess asked for points of clarity prior to opening up the public hearing with regard to FAR change for hotels. Did he mean 6 or .6? Mr. Boucher responded .6. Another question was the measure of the front yard width. Mr. Boucher said this is measured from the setback. Commissioner Miller asked about NEPA information. Mr. Boucher responded that this should be added as a guideline. She asked that he check with the County since they are now requiring this information.

Commissioner Dunn asked about the truck parking. It states that the truck cannot exceed a one ton capacity, is this the weight or the hauling capacity? Mr. Boucher responded that this was hauling capacity. Commissioner Hoovler asked about the new district descriptions and whether there were use tables associated with these. Mr. Boucher said they are in the process of researching this to assure that there are guidelines. Mr. Hoovler went on to correct p. 43 under #29 – it should say Zoning Administrator, not Zoning Ordinance. Commissioner Barnes asked about a clarification on p. 39 regarding appeals, it states that the Town Clerk shall accept appeals. Does the Clerk accept or reject the appeals? Mr. Boucher said they will be reviewed by the proper staff prior to making any decision. On p. 43 in reference to residential driveways and commercial areas, can these be separated? Mr. Boucher said they will clarify this statement.

At this point, Vice Chairman Kalriess opened the Public Hearing.

Joy Trickett of 36 Sycolin Road thanked the staff for their work on inclusion of warming centers and introduced staff from the Good Shepherd Alliance. She went on to introduce Mark Gunderman who will be speaking on behalf of the shelter.

Mark Gunderman of Sterling, Vice Chairman of the Good Shepherd Alliance, came forward to give background on the Alliance. This is a homeless shelter that will accept people for up to 89 days. He described the other shelters in the County including Ashburn, Lucketts, Purcellville and South Riding. They also run a thrift store in Sterling which contributes to their expenses. Their goal is to provide shelter to those in need.

Ms. Trickett then came forward to explain the operation of the Sycolin Road shelter in more detail. They are concerned about some of the current terminology in the Zoning Ordinance as ask that alterations be made to enable them to continue operations as they currently do and to allow “cooling/warming” shelters as needed throughout the community. They recommend that the Commission and staff support their work so that they never have to turn the needy away.

Barbara Beach suggested that the hearing remain open allowing viewers to come speak if they like, since this was taken out of original order.

Vice Chairman moved on to the next item on the agenda, TLZM 2006-0002 ASC Airport Commerce Park, proffer amendment.

Robert Sevila, representative for the applicant, came forward to present the proffer amendment they are seeking. This was an original 1988 Zoning proffer, with some amendments. Basically there have been modifications to the Comprehensive Plan. Basically the road improvements originally required are no longer part of the new plan with regard to traffic patterns. They are requesting that the turn lanes from Miller Drive to Tolbert Lane be removed, since Tolbert Lane will no longer be a through street under the new Town Plan. The second request is a timing proffer that will allow them to make their modifications without the required road improvements. Staff agrees that the improvements are no longer required. He pointed out the original proffers and why they were required at the time of application. They will construct the improvements on Tolbert Lane to Sycolin Road and will construct road improvements for access of Blue Seal Drive. This will occur whether or not the lots are developed. The applicant has no objections to the staff recommendation. The reason for the proffer amendment is that the staff is requesting that the applicant pay the town for the unnecessary road improvements which translates to a cost of \$750, 000. The applicant has previously paid the town for improvements that were required prior to any modifications to the property. They are asking that the improvements be built to the current standards, not those that were previously considered necessary. The reimbursement requested, even prior to per square foot costs of modifications, exceeds \$4 million. The modification does not result in any greater burden to the town and does not warrant this cost.

Christopher Murphy presented the staff report which asks to recoup the money for the turn lanes at Tolbert Lane and Sycolin Road which would make contributions based on

square foot changes to comply with the town plan. The numbers that Mr. Sevila referred to were not familiar to him. The staff recommends removal of the lanes in question realizing they are no longer necessary. They recommend approval based on compensation to the town for the cost of these lanes.

Vice Chairman Kalriess closed the public hearing at this time since there was no input from the public.

Commissioner Barnes asked about the numbers, what would staff like to see to get this approved. Mr. Murphy responded that it was \$150K for the lanes and a g.s.f. contribution for future building. The estimate is based of FAR of lot 2 – \$365K-\$594K, and lot 3 could range from \$369K to \$600K dependent on the number used. There is a discrepancy in what the developer estimates the road improvements to cost and what our engineering department has estimated. Further research will be done to obtain accurate numbers. Mr. Barnes went on to ask Mr. Sevila why the acreage numbers were different. Mr. Sevila responded that right of way takes up some of the acreage that will be used for the acreage base. Mr. Sevila said he was rather surprised by the numbers that staff used in the report. He went on to state that they are paying for roads that do not have to be built or improved on. He explained that ASC is a not for profit organization. They were looking for 4 acres originally and bought 29 acres because that was all that was available. Their intent was to sell the land as quickly as they could and intended to build the road improvements themselves to make the sale more appealing.

Commissioner Hoovler asked about curb and gutter on Miller and Tolbert and asked if there would be sidewalk on Miller. Mr. Murphy responded that there would be sidewalk on one side. He went on to ask if the applicant had paid anything into the Sycolin Road improvements. Mr. Murphy responded that they had paid \$46,415 and made a contribution for lieu of construction.

Commissioner Burk said he was uncomfortable with putting new fee rates on old proffers. He feels that the cost of improvements should be honored. He asked if it was normal to apply current fees to existing conditions. Mr. Sevila said the consideration should include all of the variables involved. He said a cost to date for infrastructure is \$55 per square foot. Mr. Burk said they either need to include the value of the original or the value of the new and not selectively choose what would benefit either party the best. The parties need to come to a mutual agreement.

Commissioner Moore said that he felt the numbers were clear and it would cost around \$820K. Mr. Sevila said he is here to ask for reconsideration of the amount requested. If the proffers are built as written, \$600K for turn lanes and 90 cents a foot for buildout of lots 2 and 3 for around \$220K, at best the new numbers would roughly equal the original proffers.

Commissioner Dunn asked how long the ASC building was in place before the right turn lane was built? Mr. Murphy responded around two years. Was it built because of increased traffic in the area? Yes, that was the main reason. Mr. Dunn asked if there

were other areas where we required a new lane because of 50 employees. Mr. Murphy responded that the increased traffic put a lower service level on the road so the improvements were necessary. Mr. Dunn asked if the town had contacted ASC prior to the lane construction? Mr. Murphy responded that he is not sure. Brian Boucher went on to explain how the town determines improvements. The purpose of this application is for the applicant to try to get out of proffers that were committed some time ago because of a change in what is projected for the area. The numbers need to be discussed so that both parties can come to mutual agreement. Mr. Dunn said the bigger issue is the cost per square foot. It would be less expensive for the applicant to put in the 3 turn lanes just to let them be dug up, which is what the proffer asks for. Mr. Sevilla said basically they would like to see modification of the application to suit the current standards. He asked what would happen if they came in with an application that showed construction of the three unnecessary turn lanes? Barbara Beach asked about time constraints of this request. She suggested that there be further investigation into this. What density was granted for these proffers and is there going to be any reduction in density to reduce the fiscal impact? These things should be analyzed and brought back to the Commission. Commissioner Burk agreed.

Vice Chairman Kalriess asked about the maximum FAR, is it .3, for office use only? What is the maximum development density under the current zoning? Mr. Murphy said they would have to refigure that under the current application. Mr. Kalriess asked the applicant to look at the new numbers and get with staff to review. Commissioner Moore stated that this cannot be approved the way this was submitted, they either need to deny this or pass with conditional approval. Barbara Beach commented that the PC should be the planning mechanism and things should go to Council in final recommendation form. She asked that they get better information prior to sending this to Council.

Commissioner Hoovler asked that discussion between the applicant and the staff take place. Commissioner Barnes agreed. Commissioner Moore asked the applicant what they felt would work best for this. Mr. Sevilla said that they would like to meet with staff to discuss this further.

Vice Chairman Kalriess asked if it was the pleasure of the Commission to defer the vote on this to obtain further information? Barbara Beach asked whether he meant the next meeting or at a time when everyone has had adequate time to get the information. It was agreed that they would defer to a reasonable timeframe.

SUBDIVISION AND LAND DEVELOPMENT

TLPS2005-0002. Kinkead Forest Section 3 Townhouses, Preliminary Subdivision Plat.

This was considered previously by the PC with regard to a single entry for 36 lot townhouse subdivision.

Lee Phillips came forward with the staff report. This is for 38 townhouses in the Kinkead Forest subdivision. He pointed out the area on a map. The rezoning concept plan that was approved previously was amended since the applicant is asking for two more units. There is only one place to put the access way because of the topography. Staff recommends approval based on the resolution prepared by the staff. The applicant has agreed to meet all of the conditions.

Commissioner Barnes asked if this was the former commercial lot for the area? Mr. Phillips replied that yes, it was. In May of 2005 the Council approved the rezoning from commercial to residential.

Commissioner Hoovler asked how this changed from the original site plan. Mr. Phillips said the layout had not changed. He went on to ask about the trail along Kinkead Boulevard. Mr. Jordan, representative for the applicant, responded that the trail was pushed closer to the road, as requested.

Commissioner Hoovler moved to approve Kincaid Forest Section 3 Preliminary Subdivision Plat dated June 5, 2006 and received by the Town on June 5, 2006 be approved, conditioned upon satisfactory resolution of Department of Planning, Zoning and Development review comments dated July 12, 2006 and Department of Engineering and Public Works comments dated June 28, 2006 (revised July 13, 2006) and as agreed in writing by the applicant in a letter dated July 13, 2006.

Motion: Hoovler

Second: Burk

Carried: 7-0-0

Lee Phillips requested that the variation request be voted upon also.

Commissioner Hoovler moved that a variation of Section 13-75(d)(2)(d) of the Subdivision and Land Development Regulations to permit 38 units on a private parking court be approved.

Motion: Hoovler

Second: Burk

Carried: 7-0-0

Commissioner Kalriess asked for a motion to defer consideration of ASC's proffer amendment request for either the staff or applicant to redocket when the information has been obtained.

Motion: Burk

Second: Hoovler

Carried: 7-0-0

PETITIONERS

Vice Chairman asked if there were any petitioners in the audience at this time. There were none and the Petitioner's session was closed.

Vice Chairman Kalriess moved the agenda back to the Zoning Ordinance Amendment discussion at this time. He asked about some BAR comments that had been submitted.

Annie McDonald commented on Theresa Minchew's comments. Re "applicability" (Section 7.5.2) Ms. Minchew commented that the word "heretofore" be removed and that the words "public and Private" be inserted prior to "all property"

Regarding Section 7.5.10 Designation of Historic Districts and Landmarks, there are currently no guidelines for designation of archaeological sites. Commissioner Hoovler asked about the Fort Evans site designation and how that was handled. Ms. McDonald responded that those sites were not designated locally. Further we are adding the term Historic Landmark versus Historic Designation of a landmark or a district. This is to clarify this language with other language in the Ordinance. Commissioner Miller said she thought the language was acceptable since the state does designations on a regional versus local level, therefore the word "local" should be left in the verbiage. Ms. McDonald went on to review other verbiage that was changed to clarify criteria for historic designations.

Commissioner Miller commented on what is considered a "local historic landmark" She felt that Ms. Minchew's comments were taking into consideration a broader thinking into the future.

With regard to front yard parking, Ms. McDonald commented that BAR still has the authority to review these and they are establishing a maximum. Commissioner Hoovler asked about this in terms of the Crescent District with regard to preservation, will the BAR have jurisdiction? No. How do we cover this then? Mr. Boucher commented that this will be under zoning review, but they do not have architectural control over this area. He went on to comment that there will more likely be special regulations for this area.

Susan Swift commented that the Crescent District will be addressed separately.

BAR will still review rear yard setbacks in the B-1 district.

Commissioner Kalriess then went to the list of items they wanted to discuss. He did ask if there were any persons in the audience that wanted to address the public hearing on this. Seeing none, discussion continued. It was decided to go through the list of amendments and discuss only those that raised concern.

Commissioner Miller moved that the Planning Commission approve the proposed zoning amendments with the exceptions of the following Items. Items 3, 7, 10, 13, 15, 18, 26, 27 and 36 as staff has amended and incorporated language changes,

Motion: Miller

Second: Burk

Carried: 7-0-0

Vice Chairman Kalriess asked if Item 3 was a complete list, or a partial list. Mr. Boucher said this is the complete list, but it will be modified. Mr. Kalriess said on a concept plan for rezoning, they don't note proposed uses or area tabulations for traffic studies or a fiscal impact analysis. Should these be included? Mr. Boucher said they are addressed elsewhere. There were no other comments.

Item 7 Traffic impact analysis – if there is a change in intensity – there was an old standard of impact on a road because of traffic. Mr. Boucher there is a requirement not in the Zoning Ordinance but in the DCSM before traffic study is required. Susan Swift said the percentage of impact of a new project is required under the DCSM. Mr. Kalriess asked if this verbiage is too severe? Ms. Swift commented that there are ways to get variances depending on when the study is required.

At this point the recording equipment ceased to function. The remainder of these minutes are based on notes taken by the Clerk of the Commission. NOTE: There is a time lapse between comments and the discovery of the recording malfunction.

Commissioner Hoovler had a question on number 10, regarding Stacking Spaces for Bank Drive-Through Windows.

Commissioner Hoovler had a question on Item 13, Architectural Design/Historic Preservation in Planned Development Districts with regard to Ms. Minchew's comment asking that we reiterate archaeological resources are included and clarifying what that might include. He feels they are addressed in Section 3.3.6K, Paragraph B.

With regard to Item 15, Revised District Descriptions, Commissioner Hoovler referred to the last sentence under Section 5.1 R-E Single Family Residential Estate District. He asked if in the JLMA the areas identified wouldn't be designated residential, could they be regional office? Barbara Beach commented that the RE is the lowest density so this should remain until it can be determined what uses are more appropriate. After some further discussion, Commissioner Hoovler suggested that staff consider matching the language to the Town Plan.

Item 18, Telecommunications Facilities Amendments. Commissioner Hoovler said the criteria used to decide when to underground. He suggested that the words "per the Town's underground policy" be added into the paragraph in Section 9.3.23 to have the sentence read "All future telecommunications structures, including transmission lines,

should be placed per the town's underground policy, if possible." Barbara Beach commented that Council is currently working under the policy but is looking at a change. Also under Section 9.3.23, Paragraph A, #5, the sentence should be amended to read: "No commercial advertising shall be allowed on any telecommunications facilities." Under the same section, Paragraph B, Monopoles, #5 the question arose whether the Planning Commission could make changes to the statement: "Unless otherwise required by the FCC, or the FAA, monopoles shall have galvanized finish or be designed, painted to camouflage the monopole." The answer was yes.

In Section 18.146 Public Utility, Minor, it was suggested that the word "Minor" be added to the beginning of the sentence to read "A minor public utility . . ."

With regard to Item #26, Deleting Opaque Fence Requirement for Swimming Pools, Commissioner Hoovler commented that he felt a four foot fence was too low. Barbara Beach stated that this was part of the State Code and could not be modified.

Section 11.5.2, Trucks Parked in Residential Areas. There was some discussion about road impact of heavy vehicles, along with the one ton capacity limit. Commissioner Dunn asked if there were large pickup trucks that exceeded the one ton capacity and how this would be handled. Barbara Beach responded that they checked the information on tonnage on the VDOT site.

Item 36 referring to Standards for Emergency Shelters such as Warming Center or Domestic Abuse Shelters was deleted from the Ordinance for further revision.

Commissioner Hoovler moved that the Planning Commission approve Items 3, 7, 10, 13, 15, 18, 26 and 27 as amended.

Motion: Hoovler
Second: Miller
Carried: 7-0-0

Commissioner Miller commented that in the future the Planning Commission should submit their comments ahead of time. This would cut down on the discussion and assist the Town Attorney with review prior to the meeting.

COMMITTEE REPORTS

Vice Chairman Kalriess reported that the JLMA/UGA Subcommittee had recently met. The Planning Commission should prepare a response to the Loudoun County Planning Commission with their statement on what they would like to see with regard to joint planning in the areas just outside of the town limits

Barbara Beach invited the Commissioners to attend the Freedom of Information Act seminar scheduled for July 26th.

NEW BUSINESS

Vice Chairman Kalriess asked what the preference was of the Commission regarding the JLMA. Commissioner Hoovler commented that they needed to put together a process. Council has asked for a response by Monday regarding their recommendation to move forward. There was discussion on how they could draft this. Barbara Beach cautioned that they could not email, only for informational purposes. Commissioner Hoovler suggested that they do that since it is hard to get on the same page while dealing with the Crosstrail application. There was further discussion on the LAMP, what the JLMA covers and how this should be planned. After reviewing the some maps of the area and referring back to a former court order, they expressed desire to plan the JLMA in accordance to what is reflected in the current Town Plan.

Barbara Beach said that she would be meeting with Lar Kelly regarding the AADPs. They will review legal documents that are in place and will work toward not giving up what they can still have input into.

Commissioner Hoovler said they should start planning discussions on the LAMP and then agree to any court ordered change.

Commission Dunn commented that this was really between the board of Supervisors and the Town Council. If they want change, they need to stand firm. Barbara Beach commented that there was a mechanism in place that representatives of the two bodies must meet at least every five years. Apparently there is no evidence of this since 1994.

Vice Chairman Kalriess said the Town has not taken a back seat. The County did not have the staffing to go forward with meetings at this time. Barbara Beach said the meeting should consist of two people from the Board of Supervisors and two people from the Town Council. Vice Chairman Kalriess suggested that the subcommittee meet on Monday night before the council worksession. Barbara Beach said the subcommittee should be empowered to vote. Susan Swift suggested that they email an approach. What areas do they want to plan. There is currently confusion on the joint planning in the CPAM, especially the two geographic areas. Barbara Beach cautioned that this was only planning, not annexation.

Commissioner Dunn commented that we seemed to take the back seat so the County took the lead. Barbara Beach said it seems that the two mile extra territory for subdivision review was given up under the annexation agreement until 1994. Should they pursue this?

Commissioner Barnes asked if this mattered – can they vote on applications in this extra territory? Vice Chairman Kalriess said there is opportunity for input on subdivision standards. Does it make sense to do recommendation policies? How do they want to go forward on joint planning? What do they want? With regard to transportation and land use, is it in our purview to make recommendations? Keep in mind, the County has no staff to work on this until the PUGAMP is finished.

Susan Swift commented the Subcommittee should go to discussion on how the process will unfold and then present their recommendation to the Planning Commission.

ELECTION OF OFFICERS

Commissioner Moore moved to nominate Ted Kalriess as Chairman of the Planning Commission.

Motion: Moore
Second: Burk
Carried: 7-0-0

Commissioner Barnes moved to nominate Earl Hoovler as Vice Chairman of the Planning Commission.

Motion: Barnes
Second: Moore
Carried 7-0-0

Commissioner Moore moved to nominate Brett Burk as Parliamentarian of the Planning Commission.

Motion: Moore
Second: Hoovler
Carried: 7-0-0

Commissioner Hoovler moved to nominate Tom Dunn as representative to the Economic Development Commission.

Motion: Hoovler
Second: Burk
Carried: 7-0-0

Commissioner Burk moved to nominate Kathryn Miller to the Board of Architectural Review.

Motion: Burk
Second: Hoovler
Carried: 7-0-0

ADJOURNMENT

The motion to adjourn was made and seconded. The meeting adjourned at 11:15pm.

Prepared By:

Approved by:

Linda DeFranco, Commission Clerk

Ted Kalriess, Vice Chairman